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OGC HAS REVIEWED.

16 January 1948

MEMORANDUM FOR CHIEF, ADVISORY COUNSEL

Subject: Responsibility for Detecting Those Activities of Licensed U. S. Amateur Radio Stations Which are of Interest to U. S. Communication Intelligence Authorities.

Reference: Memorandum for Captain Joseph Finnegan, USN, subject as above, dated 19 December 1947, from Secretariat, USCICG.

1. In the reference memorandum, the opinion of the Director of Central Intelligence has been requested as to

"placing the responsibility for detecting those activities of licensed U. S. amateur radio stations which are of interest to U. S. communication intelligence authorities."

2. In effect, the problem presented has four facets:

- a) The monitoring of licensed operators;
- b) The monitoring of clandestine transmissions;
- c) The performance of (a) and (b) above for internal security or law enforcement reasons; and
- d) The performance of (a) and (b) above for foreign intelligence collection.

As noted below, the preponderance of the work in connection with these four elements is of an internal security or law enforcement nature. In all probability the foreign intelligence content is virtually negligible. To this extent it is doubtful whether it is within the jurisdiction of the Director of Central Intelligence to assign the over-all function.

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4. The powers of the Federal Communications Commission, in connection with a monitoring program would be twofold:

- a) The Commission maintains a Monitoring Section which is an outgrowth of the old Radio Intelligence Division. Its primary interests are the location of illegal or clandestine transmissions, and non-compliance with the provisions of the Communications Act. Its mission has been described in Commission regulations as follows:

"Monitoring Section, which provides surveillance of the radio spectrum to insure compliance with treaties, the Communications Act and Commission standards in operations of radiotelegraph and radiotelephone circuits of all types; maintains complete case records of illegal stations including locations, calls, frequencies, technical characteristics and other significant information, and prepares and presents evidence on illegal operation or other violations in criminal prosecutions."

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- b) It would appear to be within the powers of the Federal Communications Commission to monitor licensed operators for intelligence purposes. Section 1 of the Act which established the Communications Commission, sets forth that it was established (among other reasons) ". . . for the purpose of the national defense . . ." (47 USCA 151).

The term "national defense" could well be interpreted to empower the Commission to engage in monitoring for intelligence purposes. The Supreme Court of the United States, in the case of Gorin v. U. S., 312 U. S. 19 (1940), has defined the term "national defense" as

" . . . a generic concept of broad connotations, referring to the military and naval establishments and the related activities of national preparedness."

- c) It is probable that the Communications Commission could, from a technical standpoint, engage in monitoring licensed operators for intelligence purposes, in view of the fact that they already have a small monitoring operation in effect. No attempt has been made to contact them, or ascertain their views in this matter. In all probability they would find it very difficult to secure additional funds for an expanded program, and the resultant publicity might do much to hamper their effort.

5. The Federal Bureau of Investigation

" . . . has general charge of the investigation of all violations of Federal laws with the exception of those matters, such as counterfeiting, postal violations, customs violations, and internal revenue matters, specifically assigned by legislative enactment or otherwise to some other Federal investigative body. The Bureau conducts investigations of cases of espionage, sabotage, and of other matters pertaining to internal security. . . ."

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Thus it would appear that the primary interest of the FBI involves the domestic security of the United States, and it might be difficult for them to broaden their field in this connection into a positive program of the type desired.

6. The broad powers inherent in the armed services are of such a nature that directives could, in all probability, be issued to them either by the President, or the Secretaries, which would empower them to monitor internal broadcasts for intelligence purposes. A full exploration of this has not been made with the armed forces, but it would seem to be inherent in their basic authorities.

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- c) This program is, in all probability, outside the scope and jurisdiction of the Federal Bureau of Investigation.
- d) The program could, in all probability, be undertaken by the Federal Communications Commission, but it is doubtful that they would wish to undertake it at the present time.
- e) This program could, in all probability, be easily encompassed by the armed services in connection with their basic authorities. Within the limited field of foreign intelligence collection, the Director of Central Intelligence could indicate that it is his

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opinion that this function should be assumed by the armed services which can in turn, in all probability, also assume the security functions by agreement with the appropriate agencies of the Government.

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